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APPLICATION NO.	FI	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/661,397 09/11/2003		09/11/2003	Ying Zheng	88265-7228	88265-7228 8420	
28765	7590	03/29/2005		EXAMINER		
WINSTON	& STRA	WN	WONG, LESLIE A			
PATENT DI	EPARTMI	ENT	,			
1400 L STREET, N.W.				ART UNIT	PAPER NUMBER	
	•	20005-3502		1761		

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)				
Office Action Summary		10/661,397	ZHENG ET AL.				
		Examiner	Art Unit				
		Leslie Wong	1761				
Period fo	The MAILING DATE of this communication apor Reply	pears on the cover sheet with the c	correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply sepecified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status							
1)🖂	Responsive to communication(s) filed on 31.	lanuary 2005.					
2a) <u></u> ☐	This action is FINAL . 2b)⊠ This action is non-final.						
3)□	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposit	on of Claims						
4)⊠	Claim(s) 1-15 is/are pending in the application	٦.					
	4a) Of the above claim(s) is/are withdrawn from consideration.						
5)□	5) Claim(s) is/are allowed.						
6)⊠	☑ Claim(s) <u>1-15</u> is/are rejected.						
7)∐	Claim(s) is/are objected to.						
8)□	Claim(s) are subject to restriction and/	or election requirement.					
Applicati	on Papers	•					
9)	The specification is objected to by the Examin	er.					
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority u	ınder 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:							
1. Certified copies of the priority documents have been received.							
	2. Certified copies of the priority documents have been received in Application No						
	3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).							
* See the attached detailed Office action for a list of the certified copies not received.							
		•					
Attachmen	t(s)		•				
1) Notic	e of References Cited (PTO-892)	4) Interview Summary					
3) 🔲 Inforr	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08 r No(s)/Mail Date	Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	ate Patent Application (PTO-152)				
S. Patent and Ti	ademark Office						

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The finality of the last Office action has been withdrawn.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of copending Application Nos. 10/661388 and 10/661432. Although the conflicting claims are not

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identical, they are not patentably distinct from each other because they are fully encompassed by the claims of Application Nos. 10/661388 and 10/661432.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is 571-272-1411. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leslie Wong

Primary Examiner

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LAW March 23, 2005